

§ 105-187.80. Returns and payment of tax.

(a) General. – Severance taxes are payable when a return is due. A return is due quarterly or monthly as specified in this section. A return must be filed by the producer of the energy mineral with the Secretary on a form prescribed by the Secretary and in the manner required by the Secretary. A return must be signed by the taxpayer or the taxpayer's agent.

(b) Payment. – A producer of energy minerals shall pay the tax for all owners of the energy minerals. The producer shall withhold from any payment due owners the proportionate tax due for remittance to the Secretary.

(c) Quarterly. – A taxpayer who is consistently liable for less than one thousand dollars (\$1,000) a month in severance taxes must file a return and pay the taxes due on a quarterly basis. A quarterly return covers a calendar quarter and is due by the 25th day of the second month following the end of the quarter.

(d) Monthly. – A taxpayer who is consistently liable for at least one thousand dollars (\$1,000) a month in severance taxes must file a return and pay the taxes due on a monthly basis. A monthly return is due by the 25th day of the second month following the calendar month covered by the return.

(e) Category. – The Secretary must monitor the amount of severance taxes paid by a taxpayer or estimate the amount of taxes to be paid by a new taxpayer and must direct each taxpayer to pay tax and file returns as required by this section. In determining the amount of taxes due from a taxpayer, the Secretary must consider the total amount due from all places of business owned or operated by the same person as the amount due from that person. A taxpayer must file a return and pay tax in accordance with the Secretary's direction.

(f) Information on Return. – The amount of tax due and any other information required by the Secretary must be included on the return. Returns that do not contain the required information will not be accepted. When an unacceptable return is submitted, the Secretary will require a corrected return to be filed. The return must contain the following information concerning energy minerals produced during the month being reported:

- (1) The gross amount of energy minerals produced that are subject to the tax imposed by this Article.
- (2) The leases from which the energy minerals were produced.
- (3) The names and addresses of the first purchasers of the energy minerals.

(g) Additional Information. – To claim an exemption for on-site use, the producer or taxpayer of a proposed or existing gas well shall apply to the Secretary for determination of eligibility. The Secretary may require an applicant to provide any information required to administer this provision. The Secretary shall make the determination within 15 calendar days of the receipt of all information required by the Secretary from the producer or taxpayer, and the producer or taxpayer shall attach the determination of eligibility to its severance tax form next due, as applicable. The taxpayer shall provide any information required by the Secretary. Every taxpayer claiming the exemption shall maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the claim to which the taxpayer is entitled. The burden of proving eligibility shall rest upon the taxpayer, and no exemption shall be allowed to a taxpayer who fails to maintain adequate records or to make them available for inspection. The portion of the severance tax that is required to be deducted from the royalty owner or other interest shall be calculated in the same manner as the portion of the severance tax borne by the producer.

(h) Commission Determination. – To claim the marginal gas rate, the producer or taxpayer of a proposed or existing gas well shall provide to the Secretary proof that the Mining and Energy Commission has determined the well qualifies as a marginal gas well. (2014-4, s. 17(a).)